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April 5, 2016

**Via Regular Mail**

Handschu Settlement  
Clerk's Office  
U.S. District Court  
500 Pearl Street  
New York, NY 10007

Re: Fairness Hearing Comment  
Handschu v. Special Services Division  
71 Civ. 2203 (CSH)

Dear Judge Haight:

Thank you for inviting the public to offer comments concerning the January 2016 proposal to amend the Modified Handschu Guidelines, which the court is reviewing.

I am a member of the Class. I am a partner at the law firm of Davis Wright Tremaine LLP and until 1998 was a partner at Lankenau, Kovner & Outten, which merged with the Davis Wright firm. I specialize in First Amendment and media law. I have been active in nonprofit and civic organizations, including as a co-founder of the Media Law Resource Center, served as former Chair of the Committee on the Judiciary and the Committee on Communications and Media Law of the Association of the Bar of the City of New York. I was a member and former Chair of the New York State Commission on Judicial Conduct and am a board member and former Chair of The Fund for Modern Courts.

More pertinent to the comments I wish to offer, I am a former Corporation Counsel of the City of New York having served in that capacity in 1990 and 1991. There, I had the opportunity to deal with issues arising under the Handschu Guidelines as they existed at the time.

I strongly support the proposed amendments to the Modified Handschu Guidelines jointly offered by Class Counsel and the New York City Police Department. I have followed the *Handschu v. Special Services Division* litigation since the Handschu Guidelines came into effect thirty years ago, since I knew and respected Professor Paul Chevigny of New York University Law School, who was leading much of the effort at the time. My work for Mayor Dinkins and Commissioner Lee Brown included representing the New York Police Department during the early years of the NYPD's operation under the Handschu Guidelines.

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I have also followed developments over the last fifteen years as this court has grappled with finding a balance to protect constitutional freedoms of New Yorkers in the contemporary complex environment. In my opinion, while there is much to be said for ensuring greater compliance with CFR, Part 23 relating to the retention of non-criminal records, on balance, the proposed amendments present sensible and clear assistance for the New York City Police Department. Incorporating explicit protections against racial, religious and ethnically motivated policing reflects values the public, the City Council and the courts have recognized as a cornerstone of constitutional policing. Creation of a Committee within the Intelligence Bureau to consult with the Commissioner of Intelligence to assure investigations have a law enforcement basis promises to help curtail excesses such as the wide and broad investigations of lawful activity in the Muslim community documented by the Associated Press and other media. And the restoration of a civilian appointed by the Mayor to participate in the process within the Police Department is an important development which will help the NYPD exercise thoughtful judgment as it carries out its public safety mission.

Thank you for considering my comments.

Respectfully,

A handwritten signature in black ink, appearing to read 'V. Kovner', with a long horizontal flourish extending to the right.

Victor A. Kovner

cc: Copy via email to [handschusettlement@gmail.com](mailto:handschusettlement@gmail.com)



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